

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Robert Lee Bailey,

Civil No. 12-78 (DWF/LIB)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

United States of America,

Respondent.

Robert Lee Bailey, *Pro Se*, Petitioner.

D. Gerald Wilhelm, Erika R. Mozangue, and Gregory G. Brooker, Assistant United States Attorneys, United States Attorney's Office, counsel for Respondent.

This matter is before the Court upon Petitioner Robert Lee Bailey's objections (Doc. No. 3) to Magistrate Judge Leo I. Brisbois's January 12, 2012 Report and Recommendation (Doc. No. 2) insofar as it recommends that Petitioner's application for habeas corpus relief under 28 U.S.C. § 2241 be summarily dismissed. Respondent filed a response to the objections on February 7, 2012. (Doc. No. 7.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and

precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Petitioner's objections.

In the current action, Petitioner seeks a writ of habeas corpus that would excuse him from serving the balance of his prison sentence, arguing that the Government's loss of his property at or near the time of his apprehension constitutes a second punishment for his conviction and that this punishment violates the double jeopardy clause. Petitioner's primary objection to the Magistrate Judge's recommended dismissal of this action is that the Report and Recommendation erroneously concludes that his property was not deliberately taken to punish him for his crimes and that Petitioner's double jeopardy claim has no merit. The Court concludes that the Magistrate Judge's Report and Recommendation correctly determined that Petitioner's application for habeas corpus relief should be summarily dismissed.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Petitioner Robert Lee Bailey's objections (Doc. No. [3]) to Magistrate Judge Leo I. Brisbois's January 12, 2012 Report and Recommendation are **OVERRULED**.
2. Magistrate Judge Leo I. Brisbois's January 12, 2012 Report and Recommendation (Doc. No. [2]) is **ADOPTED**.

3. Petitioner's application for habeas corpus relief under 28 U.S.C. § 2241, (Doc. No. [1]) is summarily **DISMISSED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 10, 2012

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge